

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Request of Interstate
Power Company for Authority to Change
Its Rates for Gas Service in Minnesota

DISCOVERY ORDER

The above-entitled matter is before the Administrative Law Judge on the
Department of Public Service's Motion to Compel.

Appearances: Brent L. Vanderlinden, Assistant Attorney General, 1200 NCL
Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, filed a Motion to
Compel Response to Information Request on behalf of the Department of Public
Service (DPS) on July 17, 1995. Christopher B. Clark, Attorney, Interstate Power
Company, 1000 Main Street, P.O. Box 769, Dubuque, Iowa 52004-0769, filed a
Resistance to Motion to Compel Response to Information Request on behalf of
Interstate Power Company (Interstate) on July 24, 1995. No oral argument was
requested or held.

Based upon the record herein and for the reasons set forth in the following
Memorandum, the Administrative Law Judge makes the following:

ORDER

1. Interstate shall immediately supply all of the information requested in
DPS Information Request No. 144(b).
2. The information supplied is and shall be treated as trade secret
information under Minn. Stat. § 13.37, subd. 1(b) and Minn. R. 7829.0500.
3. The data provided to DPS pursuant to this Order shall be used and
maintained by DPS only for purposes of this proceeding and in accordance with Minn.
Stat. Ch. 13 and Minn. R. 7829.0500. In the event that disclosure of the information is
required, Interstate shall be provided notice thereof and an opportunity to be heard on
the issue of disclosure before any disclosure is made to any third party.

IT IS SO ORDERED.

Dated this 16th day of August, 1995

STEVE M. MIHALCHICK
Administrative Law Judge

MEMORANDUM

In Information Request No. 144(b) DPS asked whether Interstate had received any settlements from insurance or third parties that are not included in the 1994 rate case test year and, if so, asked it to provide information regarding the settlement, including the amount. In response, Interstate stated that it has settled with one of eleven insurers it has sued to recover investigation and clean-up costs of nine former gas manufacturing plants. Interstate objects to disclosing any details of the settlement at this point in time, primarily because it may jeopardize its settlement efforts with the remaining insurers. Specifically, the company argues that the information is not needed because 1) Interstate is not yet seeking relief for the cost of the litigation against the insurance carriers and the amount of the one settlement to date does not exceed the amount expended on the insurance litigation, 2) disclosure of the settlement information to the other insurers could have a negative effect on its settlement negotiations with the other insurers, 3) public policy favors maintaining the confidentiality of settlement agreements to encourage settlements, and, 4) there is no guarantee that the requested information would remain confidential. Interstate offers to reveal combined settlement numbers after several of the lawsuits are resolved. The DPS position is that utilities routinely supply it with confidential and proprietary information during rate cases in other proceedings and that it is forbidden by the Government Data Practices Act from releasing such data to the public.

The information requested appears to be relevant because Interstate has requested relief from the investigation and clean-up costs in this proceeding, even though it may not have requested relief from the costs of the litigation against its insurers. Interstate is no doubt correct that disclosure of the settlement agreement terms to the other insurers or the public at large would give the other insurers a negotiating advantage that would operate to the detriment of Interstate and its ratepayers. Thus, it is important that no disclosure be made beyond DPS. That is precisely why the mechanisms are in place under the Government Data Practices Act and the Procedural Rules of the Public Utilities Commission. Those mechanisms should be adequate to protect the data.

S.M.M.